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Kenichi Yasusaka

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EXAMINER

COOLEY, CHARLES E

ART UNIT

PAPER NUMBER

1774

NOTIFICATION DATE

DELIVERY MODE

11/02/2010

ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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ADVISORY ACTION

1. Applicant argues that the wider flight sections 29, 31 [sic, 30] of FULLER function to transport material rather than agitate the material. However, the specification at p. 9, lines 5-8 discloses that “[e]xamples of the screw pieces forming the agitating portion 6 include known feed, return, and neutral type, or single/multiple thread kneading screw pieces, twist kneading screw pieces, rotary screw pieces, and cut-flight screw pieces.” Since the wider flight sections 29, 31 can reasonably be considered equivalent to one or more of the broadly disclosed feed, return, and neutral type, or single/multiple thread kneading screw pieces, twist kneading screw pieces, rotary screw pieces, and cut-flight screw pieces. Accordingly, the broadly claimed “agitation portion” is met by the wider flight sections 29, 30 of FULLER. The examiner notes that while the flights sections 29, 30 of FULLER are deemed quite capable of agitating material to some degree, the degree of agitation provided by the “agitating portion” is not at issue.
2. Applicant then argues that the densely pitched sections 22, 23 of FULLER are not kneading/transporting portions. However, the specification at p. 9, lines 8-10 discloses that “[e]xamples of the screw pieces forming the kneading/transporting portion 7a include half flight screw pieces and full flight screw pieces.” Since the densely pitched sections 22, 23 can reasonably be considered equivalent to one or more of the broadly disclosed half flight screw pieces and full flight screw pieces. Accordingly, the broadly claimed “kneading/transporting portion” is met by the full flight sections 22, 23 of FULLER. The examiner notes that Applicant admits the sections 22, 23 possess a

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transporting capability, albeit “low” in Applicant’s opinion, but nevertheless meeting the broadly claimed “kneading/transporting portion”.

3. Applicant proceeds to argue that the screw pieces 31, 32, 46, and/or 47 of FULLER are different from the screw pieces of the instant invention. However, the specification at p. 9, lines 17-20 discloses that “[e]ach of the screw pieces with surface-renewing ability is composed of a feed type kneading screw piece, twist kneading screw piece, rotary screw piece, cut-flight screw piece, or the like.” The screw pieces 31, 32, 46, and/or 47 can reasonably be considered equivalent to one or more of the broadly disclosed feed type kneading screw piece, twist kneading screw piece, rotary screw piece, cut-flight screw piece, or the like. Accordingly, the incredibly broadly claimed “screw pieces” are met by the screw pieces 31, 32, 46, and/or 47 of FULLER.

Moreover, FULLER at col. 3, lines 16-23 clearly teaches the surface renewal function of the screw pieces in the vent chamber 44. Applicant’s premature conclusion that the surface renewing capability of the screw pieces of FULLER is non-existent is in direct contradiction to these teachings of FULLER.

4. Furthermore, the remarks read a plethora of limitations into the claims that simply do not exist in pending claims 3-6. Such arguments are of no patentable consequence because it is well settled that features not claimed may not be relied upon in support of patentability. *In re Self*, 671 F.2d 1344, 213 USPQ 1 (CCPA 1982). Although a claim should be interpreted in light of the specification disclosure, it is generally considered improper to read limitations contained in the specification into the claims. See *In re Prater*, 415 F.2d 1393, 162 USPQ 541 (CCPA 1969) and *In re Winkhaus*, 527 F.2d 637,

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188 USPQ 129 (CCPA 1975), which discuss the premise that one cannot rely on the specification to impart limitations to the claim that are not recited in the claim.

5. Applicant's remarks are also replete with speculation and conclusions relating to FULLER that are not supported by any evidence of record. Such remarks are considered to be speculative attorney's argument unsupported by objective technical evidence on the issue. Arguments of counsel cannot take the place of evidence in the record. *In re Schulze*, 346 F.2d 600, 602, 145 USPQ 716, 718 (CCPA 1965); *In re Pearson*, 494 F.2d 1399, 1405, 181 USPQ 641, 646 (CCPA 1974).

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Charles E. Cooley in Art Unit 1774 whose telephone number is (571) 272-1139. The examiner can normally be reached on Monday - Friday. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). Additional assistance can be obtained via the Ombudsman Pilot Program is designed to enhance the USPTO's ability to assist applicants and/or their representatives with issues that arise during patent application prosecution. More specifically, if there is a breakdown in the normal prosecution process, the Ombudsman Pilot Program can assist in getting the process back on track. See <http://www.uspto.gov/patents/ombudsman.jsp> . If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Charles E. Cooley/

Charles E. Cooley
Primary Examiner
Art Unit 1774

28 October 2010